

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 459 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 "SECTION 1. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2000]:
- 6 **Chapter. 20. High Technology Investment Tax Credit**
- 7 **Sec. 1. As used in this chapter, "advanced computing" means**
- 8 **a technology used in the designing and developing of computing**
- 9 **hardware and software, including innovations in designing the full**
- 10 **spectrum of hardware from hand held calculators to super**
- 11 **computers and peripheral equipment.**
- 12 **Sec. 2. As used in this chapter, "advanced materials" means**
- 13 **materials with engineered properties created through the**
- 14 **development of specialized processing and synthesis technology,**
- 15 **including ceramics, high value added metals, electronic materials,**
- 16 **composites, polymers, and biomaterials.**
- 17 **Sec. 3. As used in this chapter, "biotechnology" means the**
- 18 **continually expanding body of fundamental knowledge about the**
- 19 **functioning of biological systems from the macro level to the**
- 20 **molecular and subatomic levels, as well as novel products, services,**
- 21 **technologies, and subtechnologies developed as a result of insights**
- 22 **gained from research advances that add to that body of**
- 23 **fundamental knowledge.**
- 24 **Sec. 4. As used in this chapter, "control" means one (1) of the**
- 25 **following:**
- 26 **(1) Ownership, directly or indirectly, of stock possessing**
- 27 **more than eighty percent (80%) of the total combined voting**
- 28 **power of all classes of the stock of a corporation entitled to**
- 29 **vote.**
- 30 **(2) Ownership, direct or indirect, of more than eighty**
- 31 **percent (80%) of the beneficial interest in the principal or**
- 32 **income of a trust.**

1       **Sec. 5. As used in this chapter, "controlled group" means one**  
2       **(1) or more chains of corporations connected through stock**  
3       **ownership with a common parent corporation if stock**  
4       **possessing at least eighty percent (80%) of the voting power**  
5       **of all classes of stock of each of the corporations is owned**  
6       **directly or indirectly by one (1) or more of the corporations,**  
7       **and the common parent owns directly stock possessing at**  
8       **least eighty percent (80%) of the voting power of all classes**  
9       **of stock of at least one (1) of the other corporations.**

10       **Sec. 6. As used in this chapter, "department" refers to the**  
11       **department of state revenue.**

12       **Sec. 7. As used in this chapter, "electronic device technology"**  
13       **means a technology involving any of the following:**

- 14       **(1) Microelectronics.**
- 15       **(2) Semiconductors.**
- 16       **(3) Electronic equipment.**
- 17       **(4) Instrumentation.**
- 18       **(5) Radio frequency.**
- 19       **(6) Microwave.**
- 20       **(7) Millimeter electronics.**
- 21       **(8) Optical and optic electrical devices.**
- 22       **(9) Data and digital communications.**
- 23       **(10) Imaging devices.**

24       **Sec. 8. As used in this chapter, "environmental technology"**  
25       **means any of the following:**

- 26       **(1) The assessment and prevention of threats or damage to**  
27       **human health or the environment.**
- 28       **(2) Environmental cleanup.**
- 29       **(3) The development of alternative energy sources.**

30       **Sec. 9. As used in this chapter, "medical device technology"**  
31       **means a technology involving any medical equipment or product**  
32       **(other than a pharmaceutical product) that has therapeutic value**  
33       **or diagnostic value and is regulated by the federal Food and Drug**  
34       **Administration.**

35       **Sec. 10. As used in this chapter, "partnership" means an**  
36       **association of two (2) or more entities formed to conduct a**  
37       **business, including:**

- 38       **(1) a limited partnership, a syndicate, a group, a pool, a joint**  
39       **venture, or an incorporated association; or**
- 40       **(2) a similar entity if the income for federal income tax**  
41       **purposes is taxed to the equity participants in that business,**  
42       **however characterized.**

43       **Sec. 11. As used in this chapter, "pass through entity" means:**

- 44       **(1) a corporation that is exempt from the adjusted gross**  
45       **income tax under IC 6-3-2-2.8(2); or**
- 46       **(2) a partnership.**

47       **Sec. 12. (a) As used in this chapter, "pilot scale**  
48       **manufacturing" means the design, construction, and testing of**  
49       **preproduction prototypes and models in the following:**

- 50       **(1) Advanced computing.**
- 51       **(2) Advanced materials.**
- 52       **(3) Biotechnology.**

(4) Electronic device technology.

(5) Environmental technology.

(6) Medical device technology.

(b) The term does not include the design, construction, and testing of preproduction prototypes and models for commercial sale. However, if the gross receipts from the sales of prototypes or sales for market testing are less than one million dollars (\$1,000,000), the prototypes and models are not considered to be for commercial sale.

**Sec. 13.** As used in this chapter, "qualified investment" means the nonrefundable, at-risk investment of cash in a small Indiana based high technology business by a taxpayer that is not a related person of the small Indiana based high technology business. In exchange for the taxpayer's investment of cash, the taxpayer must receive one (1) of the following:

(1) Stock.

(2) Interest in a partnership or joint venture.

(3) A license.

(4) The right to use a particular technology.

(5) Marketing rights.

(6) Warrants.

(7) Options.

**Sec. 14.** As used in this chapter, "qualified research expenses" means qualified research expenses as defined in Section 41 of the Internal Revenue Code in the following:

(1) Advanced computing.

(2) Advanced materials.

(3) Biotechnology.

(4) Electronic device technology.

(5) Environmental technology.

(6) Medical device technology.

**Sec. 15.** As used in this chapter, "related person" means one (1) of the following:

(1) A corporation, partnership, association, or trust controlled by the taxpayer.

(2) A corporation, partnership, association, or trust that is in the control of the taxpayer.

(3) A corporation, partnership, association, or trust controlled by a corporation, partnership, association, or trust that is in the control of the taxpayer.

(4) A member of the same controlled group as the taxpayer.

**Sec. 16.** As used in this chapter, "small Indiana based high technology business" means an individual or entity that:

(1) is doing business in Indiana;

(2) has qualified research expenses paid or incurred for research conducted in Indiana; and

(3) has not more than two hundred twenty-five (225) employees, of whom at least seventy-five percent (75%) are employed in Indiana.

**Sec. 17.** As used in this chapter, "state tax liability" means a

taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5.5 (the financial institutions tax); and
- (5) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 18. (a) Subject to the limitation provided in subsection (c), a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year for a qualified investment in a small Indiana based high technology business in the taxpayer's taxable year.

(b) The amount of the credit is equal to the amount of the taxpayer's qualified investment made in the taxable year multiplied by ten percent (10%).

(c) A taxpayer may only receive a credit for qualified investments made in taxable years beginning after December 31, 1999, and ending before January 1, 2003.

Sec. 19. (a) If the amount determined under section 18(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of unused credit.

Sec. 20. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 21. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of payment of an ad valorem property tax and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 22. (a) The amount of tax credits allowed under this chapter may not exceed fifty million dollars (\$50,000,000) in a state fiscal year.

(b) The amount of tax credits granted to an individual taxpayer under this chapter may not exceed five million dollars

- 1     **(\$5,000,000) in a taxable year.**  
2         SECTION 2. [EFFECTIVE JANUARY 1, 2000] **IC 6-3.1-20, as**  
3     **added by this act, applies only to taxable years that begin after**  
4     **December 31, 1999, and end before January 1, 2003."**  
       (Reference is to S.B. 459 as printed February 23, 1999.)

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Senator SIMPSON